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Our File No.: 13258-0275

**UNITED STATES DISTRICT COURT  
DISTRICT OF NEW JERSEY**

KEVIN ALFARO and GEORGEANA  
SZISZAK,

Plaintiffs,

v.

MICHAEL REMPUSHESKI,

Defendant.

CIVIL ACTION

Case No. 2:21-cv-2271

DEFENDANT MICHAEL REMPUSHESKI'S  
ANSWER TO PLAINTIFF'S AMENDED  
COMPLAINT, AND JURY DEMAND

Defendant Michael Rempusheski ("Defendant"), by and through his attorneys, Chasan Lamparello Mallon and Cappuzzo, PC, states as follows:

1. Defendant is without knowledge or information sufficeint to form a belief as to the truth of this allegation. Futher, there is no allegations directed to Defendant. To the extent any allegations are directed towards Defendant, same denied.

2. Defendant is without knowledge or information sufficeint to forma belief as to the truth of this allegation. Futher, there is no allegations directed to Defendant. To the

extent any allegations are directed towards Defendant, same denied.

3. Denied.

4. Defendant is without knowledge or information sufficeint to forma belief as to the truth of this allegation. Futher, there is no allegations directed to Defendant. To the extent any allegations are directed towards Defendant, same denied.

5. Defendant is without knowledge or information sufficeint to forma belief as to the truth of this allegation. Futher, there is no allegations directed to Defendant. To the extent any allegations are directed towards Defendant, same denied.

6. Defendant is without knowledge or information sufficeint to forma belief as to the truth of this allegation. Futher, there is no allegations directed to Defendant. To the extent any allegations are directed towards Defendant, same denied.

7. Defendant is without knowledge or information sufficeint to forma belief as to the truth of this allegation. Futher, there is no allegations directed to Defendant. To the extent any allegations are directed towards Defendant, same denied.

8. Defendant is without knowledge or information sufficeint to forma belief as to the truth of this allegation. Futher, there is no allegations directed to Defendant. To the extent any allegations are directed towards Defendant, same denied.

#### **PARTIES**

9. Defendant is without knowledge or information sufficeint to forma belief as to the truth of this allegation. Futher, there is no allegations directed to Defendant. To the extent any allegations are directed towards Defendant, same denied.

10. Defendant is without knowledge or information sufficeint to forma belief as to the truth of this allegation. Futher, there is no allegations directed to Defendant. To the extent any allegations are directed towards Defendant, same denied.

11. Defendant is a detective with the Nutley Police Department. Defendant denies the remaining allegations contained on Paragraph 11.

#### **JURISDICTION**

12. Defendant is without knowledge or information sufficient to forma belief as to the truth of this allegation. Futher, there is no allegations directed to Defendant. To the

extent any allegations are directed towards Defendant, same denied.

13. Defendant is without knowledge or information sufficient to form a belief as to the truth of this allegation. Further, there are no allegations directed to Defendant. To the extent any allegations are directed towards Defendant, same denied.

#### **FACTS**

**I. Mr. Alfaro tweets, and Ms. Sziszak retweets, a post asking for help identifying an officer that Mr. Alfaro believed behaved inappropriately**

14. Defendant is without knowledge or information sufficient to form a belief as to the truth of this allegation. Further, there are no allegations directed to Defendant. To the extent any allegations are directed towards Defendant, same denied.

15. Defendant is without knowledge or information sufficient to form a belief as to the truth of this allegation. Further, there are no allegations directed to Defendant. To the extent any allegations are directed towards Defendant, same denied.

16. Defendant is without knowledge or information sufficient to form a belief as to the truth of this allegation. Further, there are no allegations directed to Defendant. To the

extent any allegations are directed towards Defendant, same denied.

17. Defendant is without knowledge or information sufficient to form a belief as to the truth of this allegation. Further, there are no allegations directed to Defendant. To the extent any allegations are directed towards Defendant, same denied.

18. Defendant is without knowledge or information sufficient to form a belief as to the truth of this allegation. Further, there are no allegations directed to Defendant. To the extent any allegations are directed towards Defendant, same denied.

19. Defendant is without knowledge or information sufficient to form a belief as to the truth of this allegation. Further, there are no allegations directed to Defendant. To the extent any allegations are directed towards Defendant, same denied.

20. Defendant is without knowledge or information sufficient to form a belief as to the truth of this allegation. Further, there are no allegations directed to Defendant. To the extent any allegations are directed towards Defendant, same denied.

21. Defendant is without knowledge or information sufficient to form a belief as to the truth of this allegation.

Further, there is no allegations directed to Defendant. To the extent any allegations are directed towards Defendant, same denied.

22. Defendant is without knowledge or information sufficient to form a belief as to the truth of this allegation. Further, there is no allegations directed to Defendant. To the extent any allegations are directed towards Defendant, same denied.

23. Defendant is without knowledge or information sufficient to form a belief as to the truth of this allegation. Further, there is no allegations directed to Defendant. To the extent any allegations are directed towards Defendant, same denied.

24. Defendant is without knowledge or information sufficient to form a belief as to the truth of this allegation. Further, there is no allegations directed to Defendant. To the extent any allegations are directed towards Defendant, same denied.

25. Defendant is without knowledge or information sufficient to form a belief as to the truth of this allegation. Further, there is no allegations directed to Defendant. To the extent any allegations are directed towards Defendant, same denied.

**II. Defendant Rempusheski charges Mr. Alfaro and Ms. Sziszak with cyber harassment**

26. Defendant admits that summons were issued. Defendant denies the remainder of Paragraph 26.

27. Defendant is without knowledge or information sufficient to form a belief as to the truth of this allegation. Further, there are no allegations directed to Defendant. To the extent any allegations are directed towards Defendant, same are denied.

28. Defendant is without knowledge or information sufficient to form a belief as to the truth of this allegation. Further, there are no allegations directed to Defendant. To the extent any allegations are directed towards Defendant, same are denied.

29. Defendant is without knowledge or information sufficient to form a belief as to the truth of this allegation. Further, there are no allegations directed to Defendant. To the extent any allegations are directed towards Defendant, same are denied.

30. Defendant admits that complaint-summons were issued for Plaintiffs. Defendant denies the remainder of Paragraph 30.

31. Defendant is without knowledge or information sufficient to form a belief as to the truth of this allegation. Further, there are no allegations directed to Defendant. To the

extent any allegations are directed towards Defendant, same denied.

32. Defendant is without knowledge or information sufficient to forma belief as to the truth of this allegation. Futher, there is no allegations directed to Defendant. To the extent any allegations are directed towards Defendant, same denied.

33. Defendant is without knowledge or information sufficient to forma belief as to the truth of this allegation. Futher, there is no allegations directed to Defendant. To the extent any allegations are directed towards Defendant, same denied.

34. Defendant is without knowledge or information sufficient to forma belief as to the truth of this allegation. Futher, there is no allegations directed to Defendant. To the extent any allegations are directed towards Defendant, same denied.

35. Denied.

36. Admitted.

**III. Defendant Rempusheski succeeds in stfiling Mr. Alfaro's and Ms. Sziszak's speech and inflicting additional injuries on them**

37. Denied.

38. Defendant is without knowledge or information sufficient to forma belief as to the truth of this allegation.



Further, there is no allegations directed to Defendant. To the extent any allegations are directed towards Defendant, same denied.

39. Defendant is without knowledge or information sufficient to form a belief as to the truth of this allegation. Further, there is no allegations directed to Defendant. To the extent any allegations are directed towards Defendant, same denied.

40. Defendant is without knowledge or information sufficient to form a belief as to the truth of this allegation. Further, there is no allegations directed to Defendant. To the extent any allegations are directed towards Defendant, same denied.

41. Defendant is without knowledge or information sufficient to form a belief as to the truth of this allegation. Further, there is no allegations directed to Defendant. To the extent any allegations are directed towards Defendant, same denied.

42. Defendant is without knowledge or information sufficient to form a belief as to the truth of this allegation. Further, there is no allegations directed to Defendant. To the extent any allegations are directed towards Defendant, same denied.

43. Defendant is without knowledge or information sufficient to form a belief as to the truth of this allegation. Further, there are no allegations directed to Defendant. To the extent any allegations are directed towards Defendant, same are denied.

**CAUSES OF ACTION**

**Count 1 - Violation of First Amended Rights - 42 U.S.C. § 1983**

44. Defendant repeats and re-alleges each and every allegation set forth in the above paragraphs as if fully set forth herein.

45. Denied.

46. Denied.

47. Denied.

48. Denied.

**Count 2 - Violation of First Amendment Rights - N.J.S § 10:6-2**

49. Defendant repeats and re-alleges each and every allegation set forth in the above paragraphs as if fully set forth herein.

50. Denied.

51. Denied.

52. Denied.

53. Denied.

**Count 3 - Malicious Prosecution**

54. Defendant repeats and re-alleges each and every allegation set forth in the above paragraphs as if full set forth herein.

55. Denied.

56. Denied.

**AFFIRMATIVE DEFENSES**

**FIRST AFFIRMATIVE DEFENSE**

Any and all claims that Plaintiffs made against Defendant are barred by the New Jersey Tort Claims Act.

**SECOND AFFIRMATIVE DEFENSE**

Plaintiffs' punitive damages against Defendant must be dismissed because same are not permitted by law.

**THIRD AFFIRMATIVE DEFENSE**

Plaintiffs' Complaint fails to set forth a cause of action against Defendant.

**FOURTH AFFIRMATIVE DEFENSE**

There was not improper conduct by this Defendant.

**FIFTH AFFIRMATIVE DEFENSE**

Any injuries and/or damages allegedly sustained by Plaintiffs were caused by parties over which Defendant has no control.

**SIXTH AFFIRMATIVE DEFENSE**

Plaintiffs' action is barred by Statute of Limitations.

**SEVENTH AFFIRMATIVE DEFENSE**

Plaintiffs' action is barred in whole or in part by the by the Doctrine of Comparative Negligence.

**EIGHTH AFFIRMATIVE DEFENSE**

Plaintiffs' action is barred because Plaintiffs have unclean hands.

**NINTH AFFIRMATIVE DEFENSE**

Plaintiffs' action is barred by the Doctrine of Estoppel.

**TENTH AFFIRMATIVE DEFENSE**

The sole negligence or conduct of the Plaintiffs were the cause of any alleged damages sustained by Plaintiffs.

**ELEVENTH AFFIRMATIVE DEFENSE**

Defendant has no duty towards Plaintiffs.

**TWELFTH AFFIRMATIVE DEFENSE**

Defendant is immune from suit pursuant to the provisions of the N.J.S.A. 59:5-4.

**THIRTEENTH AFFIRMATIVE DEFENSE**

Any liability which otherwise may be imposed upon Defendant must be reduced by the application of the standard of comparative negligence.

**FOURTEENTH AFFIRMATIVE DEFENSE**

Defendant is immune from liability pursuant to the provisions of the N.J.S.A. 59:2-1.

**FIFTEENTH AFFIRMATIVE DEFENSE**

Defendant is not liable to Plaintiffs pursuant to N.J.S.A. 59:2-2(b) .

**SIXTEENTH AFFIRMATIVE DEFENSE**

Defendant is immune from liability pursuant to the provisions of N.J.S.A. 59:3-2.

**SEVENTEENTH AFFIRMATIVE DEFENSE**

Any recovery to which Plaintiffs may be otherwise entitled is subject to the reduction in accordance with the limitations on damages pursuant to N.J.S.A. 59:9-2.

**EIGHTEENTH AFFIRMATIVE DEFENSE**

Any acts and/or admissions and/or negligence, if any, on the part of Defendant is not the proximate cause of any damages or injuries which may have been sustained by Plaintiffs.

**NINETEENTH AFFIRMATIVE DEFENSE**

Defendant is immune from suit pursuant to the provisions of N.J.S.A. 59:2-10.

**TWENTIETH AFFIRMATIVE DEFENSE**

Defendant asserts that he is entitled to complete immunity by virtue of N.J.S.A. 59:4-1 et. seq.

**TWENTY-FIRST AFFIRMATIVE DEFENSE**

Plaintiffs' claims are limited by N.J.S.A. 2A:15-97.

**TWENTY-SECOND AFFIRMATIVE DEFENSE**

Plaintiffs' Complaint should be dismissed because this Court does not have subject matter of personal jurisdiction of this matter.

**TWENTY-THIRD AFFIRMATIVE DEFENSE**

Plaintiffs' claims are barred because Plaintiff has filed this action in an improper venue.

**TWENTY-FOURTH AFFIRMATIVE DEFENSE**

Plaintiffs' claims are barred due to insufficiency of process.

**DEMAND FOR JURY TRIAL**

Under Fed.R.Civ.P. 38(b), Defendant demands a jury trial of all issues.

**RESERVATION OF RIGHT AND CLAIM FOR ATTORNEYS FEES AND COSTS**

Pursuant to the provisions of the Frivolous Law Act N.J.S.A. 2A:15-59.1 et seq. and New Jersey Federal District Court Rule 11, Defendant hereby asserts a claim against Plaintiffs for reimbursement of all attorney's fees and cost associated with this action.

**DEMAND FOR DAMAGES**

You are hereby requested and required to furnish to the undersigned within five (5) days, a written statement of the amount of damages claimed in this action.

**DESIGNATION OF TRIAL COUNSEL**

Leonard V. Jones, Esq., is hereby designated as trial counsel for Defendant.

**CERTIFICATION**

Pursuant to Local Rule 11.2, I certify that to the best of my knowledge, information and belief that the matter in controversy is not the subject of any other Court action or arbitration proceeding, nor pending or contemplated, and that no other parties should be joined in this action.

**CHASAN LAMPARELLO MALLON & CAPPUZZO, PC**  
**Attorneys for Defendant Michael**  
**Rempusheski**

By: /s/Leonard V. Jones

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**LEONARD V. JONES**

**DATED:** January 24, 2022

**CERTIFICATION**

I certify that I am filing this pleading after the Court denied Defendant's Motion to Dismiss and there was not specific time limit to file same pursuant to the Court's December 10, 2021 Order. Further, Plaintiffs' counsel has not requested entry of default. Accordingly, I submit this pleading to have same entered on upon the docket and respectfully request same be accepted and entered upon the docket.

**CHASAN LAMPARELLO MALLON & CAPPUZZO, PC**  
**Attorneys for Defendant Michael**  
**Rempusheski**

By: /s/Leonard V. Jones

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**LEONARD V. JONES**

**DATED:** January 24, 2022